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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,160	02/03/2004	Ronald C. Tate	1505-0170	1860

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EXAMINER	
KARLSEN, ERNEST F	

ART UNIT	PAPER NUMBER
2829	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/772,160	TATE, RONALD C.	
	Examiner	Art Unit	
	Ernest F. Karlsen	2829	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 September 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) *12-20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11 and 21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Applicant's election with traverse of Invention I, claims 1-11 and 21, in the reply filed on September 6, 2006 is acknowledged. The traversal is on the ground(s) that there would be no burden in examining all claims and all claim have the same classification. This is not found persuasive because Applicants have not shown that the groups are not patentably distinct. Admission on the record by Applicants that the groups are not patentably distinct will result in rejoinder. Applicants appear to be arguing that same subclass of classification means same invention. If such were carried to its logical conclusion there could only be one patent per subclass and Applicants could be denied a patent on the basis that there is already at least one patent in class 324, subclass 142. With regard to the "no burden" argument, it is noted that each distinct invention beyond one is a burden in that it draws the attention of the Examiner to its own requirements. Examination requires focus to follow search leads and patterns of logic in formulating applications of the prior art to that which is claimed. When the Examiner has to pursue several search patterns of logic simultaneously or serially, added burden is presented. In order to examine several inventions and/or species simultaneously or serially, added effort beyond that necessary for one invention or species must be expended. Where the effort is serial and the jobs are different the added burden is obvious. Digging two equal holes of the same size requires twice the effort of digging one hole. Such is an obvious conclusion. It can be argued that some inventions or species can be examined simultaneously but such is true only if they are not patentably distinct, that is, if that which applies to any one applies to all others. Where inventions or species are patentably distinct each requires separate

consideration. As a for instance, consider a properly restrictable apparatus and method of use of that apparatus where one has details without correspondence in the other. Finding references anticipating or making obvious one does not necessarily render the other unpatentable. Having to examine the other constitutes a burden. If the apparatus and method of the above example are not patentably distinct no burden is presented in examining both since if one falls the other falls as well. As a second for instance, consider a properly restrictable combination and subcombination where all the details of the subcombination are not necessary for the combination. Finding references anticipating or making obvious one does not necessarily render the other unpatentable. Having to examine the other is a burden. If the combination and subcombination of the above example are not patentably distinct no burden is presented in examining both since if one falls the other falls as well. Admission on the record that the groups are not patentably distinct will result in rejoinder.

The requirement is still deemed proper and is therefore made FINAL.

Claims 12-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and/or species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on September 6, 2006.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loy et al '010 in view of Jackson et al '004. Loy et al '010 show in Figures 2A and 2B, current coils which are substantially identical in shape and asymmetrical about a midpoint, see columns 3 and 4 of Loy et al '010, but does not show the current coils to be unitary construction. Jackson et al '004 shows current coils of unitary construction. It would have been obvious to one of ordinary skill in the art at the time of the invention to have constructed the apparatus of Loy et al '010 of flat metal as shown by Jackson et al '004 because one of ordinary skill in the art would realize that so doing would decrease manufacturing expense of the apparatus of Loy et al '010.

It is noted that Loy et al was listed on page 2 of the IDS of January 3, 2005 using the correct patent number and listed on the Form PTO-1449 with an incorrect patent number.

Any inquiry concerning this communication should be directed to Ernest F. Karlsen at telephone number 571-272-1961.

Ernest F. Karlsen

November 24, 2006

ERNEST KARLSEN
PRIMARY EXAMINER